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Davis E. Herron II
PO Box 2778
Kansas City, KS 66110

EXAMINER

WILKENS, JANET MARIE

ART UNIT PAPER NUMBER

3637

DATE MAILED: 04/19/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/670,931

Applicant(s)

KVATERNIK, NAOMI

Examiner

Janet M. Wilkens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 9/25/03
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____

Information Disclosure Statement

The information disclosure statement filed September 25, 2003 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each publication cited. The publications have not been considered. Note: web sites are constantly changing their information and previously available/viewable web pages are not always retrievable.

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

(Namely, it is improper to have the words "invention" and "inventive" in the abstract.)

Claim Objections

Claim 1 is objected to because of the following informalities: in line 12, one of the "the" needs to be deleted. Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claims 1, 10 and 17, "the tray" lacks antecedent basis, since the structure itself has not been claimed previously. Note: the preamble sets forth a walker and tray combination. Then the body of the claim sets forth limitations of the walker. The tray itself is not being positively claimed before "the tray" limitation. Also for claim 1, it is unclear whether or not the first and second connecting bars" in line 12 are the same bars claimed previously. Also for claim 17, "the connectors" (plural) lacks antecedent basis.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 5, 9, 10, 12, and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Olson. Olson teaches a walker and tray combination (Fig 1) comprising: a first pair a legs (12 vertical members) connected via an upper and lower connecting bar (12 horizontal member, 15), a second pair a legs (12 vertical members) connected via an upper and lower connecting bar (12 horizontal member, 15), a strut (18) between the pairs of legs, and a tray (19) having biasable claw connectors (20) and a hinge on

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the lower surface thereof to attach the tray to the upper connecting bars when in a use position (Fig. 1) and adjacent and parallel one of the pairs of legs when in a non-use position (Fig. 2). Since all of the features in the method claims are disclosed by Olson, the method steps therein would inherently be met.

Claims 1, 2, 4, 7, 9, 10, 12, and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Carbajal et al. Carbajal teaches a walker and tray combination (Fig 1) comprising: a first pair a legs (36,38) connected via an upper and lower connecting bar (28; Attachment A a), a second pair a legs (36a,38a) connected via an upper and lower connecting bar (28a; Attachment A b), a strut (Attachment A c) between the pairs of legs, and a tray (10) having detachable/pivotable connectors (20,22,34;20a,22a,34a) attach to the lower surface thereof to attach the tray to the connecting bars when in a use position (Fig. 1) and adjacent and parallel one of the pairs of legs when in a non-use position (Fig. 2). The combination also includes first and second handlebars (Attachment A d and e). Since all of the features in the method claims are disclosed by Carbajal, the method steps therein would inherently be met.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 3, 7, 8, 11, 14, 15 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson in view of Cass (British reference 2,261,173). As stated above, Olson teaches the limitations of claims 1 and 10, including a walker having upper and lower bars between each of the leg pairs and a tray having biasable claw connectors (a pair) and a hinge on the lower surface thereof. For claims 3, 11, 15 and 17-19, Olson fails to teach that the hinge connector is a removably mounted connector that is attachable to the opposing lower bar when the tray is in its non-use position. Cass teaches biasable connectors (68) on both ends a tray (66); the tray being attachable to a walker (10) in either a horizontal or vertical position using the connectors to accomplish both (see Figs. 1 and 2). First, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray/walker combination of Olson by using an alternate connector on the tray, i.e. using biasable connectors on both sides (using pairs of connectors-a first and fourth connector on one side and a second and third connector on the oppose side) instead of the hinge/biasable connector combination used previously, to simplify construction of the combination (one less component required), to allow the tray to be easily removed from the walker, etc. Note: because of the connector/bar attachment, the biasable connectors of Olson would be capable of rotation around their respective upper bars (when the opposing connectors are detached). Second, when the tray is in its non-use position, it would have also been obvious to one of ordinary skill in the art at the time of the invention to attach the biasable connectors located adjacent the lower connector bar thereto, to better secure the tray to the walker during transport of the walker, etc. For claims 7, 8, 14 and 17-19,

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Olson fails to teach handle bars on each of the pairs of legs. Cass further teaches handle bars on each of its pairs of legs (see Fig. 1). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the tray/walker combination of Olson by adding handle bars to each pair of legs, to provide a place for the user to put his/her hands while using the walker. Note: the handle bars would inherently prevent upward movement detachment of the tray.

Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Olson. As stated above, Olson teaches the limitations of claims 1 and 10, including a walker having a tray. For claims 6 and 16, Olson fails to teach that the tray is specifically made of polymethyl methacralate. The examiner takes Official Notice that polymethyl methacralate is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use polymethyl methacralate for the tray of Olson, depending on the desired need of the person constructing the tray, e.g. material readily available, economic reasons, personnel preferences, strength properties desired/required, etc.

Claims 6 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carbajal et al. As stated above, Carbajal teaches the limitations of claims 1 and 10, including a walker having a tray. For claims 6 and 16, Carbajal fails to teach that the tray is specifically made of polymethyl methacralate. The examiner takes Official Notice that polymethyl methacralate is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to use polymethyl methacralate for the tray of Carbajal, depending on the desired need of the

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person constructing the tray, e.g. material readily available, economic reasons, personnel preferences, strength properties desired/required, etc.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (703) 308-2204. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens
April 13, 2004

Janet M. Wilkens
JANET M. WILKENS
PRIMARY EXAMINER
Art Unit 3637